

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 20032
[REDACTED],	)	
	)	DECISION
Petitioner.	)	
_____	)	

On January 4, 2007, the staff of the Tax Discovery Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer) proposing income tax, penalty, and interest for the taxable years 2000 through 2005 in the total amount of \$4,453.

On March 7, 2007, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not request a hearing but rather chose to provide income tax returns for the Tax Commission's consideration. The Tax Commission, having reviewed the file, hereby issues its decision.

The Tax Discovery Bureau (Bureau) received information [Redacted] that showed the taxpayer received wages for work he did in Idaho. The Bureau sent the taxpayer a letter asking him about his requirement to file Idaho individual income tax returns. The taxpayer did not respond. The Bureau obtained additional information [Redacted] and determined the taxpayer was required to file Idaho individual income tax returns.

The Bureau prepared returns for the taxpayer and sent him a Notice of Deficiency Determination. The taxpayer appealed the Bureau's determination stating that the Bureau did not allow all the deductions to which he was entitled. The taxpayer stated he would obtain the services of a tax consultant to review his records and prepare any needed returns for the years in

question. The Bureau allowed the taxpayer additional time to prepare and submit his returns, but it never received any. Therefore, the Bureau referred the matter for administrative review.

The Tax Commission reviewed the matter and sent the taxpayer a letter that discussed the methods available for redetermining a protested Notice of Deficiency Determination. A representative for the taxpayer telephoned the Tax Commission and said the taxpayer's 2002 through 2005 returns were finished and would be mailed to the Tax Commission within a couple of days. She stated the 2000 and 2001 returns needed to be prepared by hand but should be ready within a few weeks. The Tax Commission received the taxpayer's 2002 through 2005 returns within a few days but did not receive the taxpayer's 2000 and 2001 returns.

The Tax Commission sent the taxpayer a letter giving him a deadline for submitting his 2000 and 2001 returns to the Tax Commission. The taxpayer contacted the Tax Commission and said he was meeting with his tax preparer in the morning and would have an update for the Tax Commission on the preparation of the needed returns. A couple of weeks later, the taxpayer contacted the Tax Commission and stated that the returns were finished and would be mailed that day. A couple of days later, the Tax Commission received the taxpayer's 2000 and 2001 returns.

The Tax Commission reviewed the taxpayer's returns and found them to be a better representation of the taxpayer's taxable income than the returns prepared by the Bureau. Therefore, the Tax Commission accepted the taxpayer's returns, subject to the normal review process of the Tax Commission, in lieu of the returns prepared by the Bureau.

The returns submitted for 2000 and 2002 through 2005 all resulted in refunds. Idaho Code section 63-3072 generally states that a claim for credit or refund of tax, penalties, or interest paid shall be made within three (3) years of the due date of the return. The taxpayer's 2000 return was received November 29, 2007, and his 2002 through 2005 returns were received

August 30, 2007. The statute of limitations for issuing refunds for 2003 expired on April 15, 2007. Since the taxpayer filed or submitted his 2003 return after April 15, 2007, the Tax Commission cannot refund or credit the amount claimed. Likewise, the taxpayer's 2000 and 2002 returns were filed or submitted after their respective statute of limitations had expired, so no credit or refund is available. However, the refunds claimed for tax years 2004 and 2005 were made within the statute of limitations and are available for credit or refund.

The taxpayer's 2001 return resulted in the taxpayer owing tax for that year. Idaho Code section 63-3072 states that an overpayment of tax imposed by the provision of the income tax act shall be credited against any tax administered by the state tax commission. Therefore, the refunds available for tax years 2004 and 2005 will be used to offset the tax owed for 2001.

In addition to the tax owed for 2001, the Tax Commission finds it appropriate that interest and penalty be added to the taxpayer's tax deficiency. The addition of interest and penalty is provided for in Idaho Code sections 63-3045 and 63-3046, respectively.

WHEREFORE, the Notice of Deficiency Determination dated January 4, 2007, is hereby MODIFIED, in accordance with the provisions of this decision, and as so modified is APPROVED, AFFIRMED AND MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following tax, penalty, and interest for the taxable year(s):

<u>YEAR</u>	<u>REFUND CLAIMED</u>	<u>REFUND ALLOWED</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2000	\$<104>	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
2001	0	0	1,086	272	392	1,750
2002	<6>	0	0	0	0	0
2003	<10>	0	0	0	0	0
2004	<12>	<12>	0	0	0	<12>
2005	<129>	<129>	0	0	0	<129>
TOTAL DUE						<u>\$1,609</u>

Interest is computed to March 1, 2008.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the taxpayer's right to appeal this decision is enclosed with this decision.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 2008, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]

Receipt No.